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E-FILED on 7/7/08

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA SAN JOSE DIVISION

DARREN ANTHONY JOSEPH,

No. C-04-04228 RMW

• |

ORDER GRANTING PETITIONER'S REQUEST TO PROCEED IN FORMA PAUPERIS ON APPEAL

BEN CURRY,

v.

[Re Docket No. 56]

Respondent.

Petitioner,

On December 21, 2006, the court denied petitioner's application for writ of habeas corpus and entered judgment. On January 18, 2007, petitioner applied for a certificate of appealability, which the court denied by order dated January 31, 2007. While the certificate of appealability was pending but after receiving a notice from the court informing him that he was required to pay the \$455.00 filing fee for an appeal, petitioner, then proceeding *pro se*, filed a letter asking to be permitted to proceed *in forma pauperis* on appeal. With his request, he submitted his Inmate Trust Account Statement, which shows an available balance of \$12.85.

The Ninth Circuit subsequently granted petitioner's application before that court for a certificate of appealability as to the issue of whether counsel rendered ineffective assistance in violation of the Sixth Amendment for failing to investigate or to present evidence to impeach the victim. It appointed petitioner counsel for the remainder of petitioner's appeal.

ORDER GRANTING PETITIONER'S REQUEST TO PROCEED IN FORMA PAUPERIS ON APPEAL—No. C-04-04228 RMW MAG

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United States District Court
For the Northern District of California

The court finds that petitioner's appeal is taken in good faith and that he is entitled to proceed
in forma pauperis. Fed. R. App. P. 24(a). Accordingly, petitioner's request to proceed in forma
pauperis on appeal is granted.

DATED: 7/7/08

| Mald M Whyte | RONALD M. WHYTE | United States District Judge

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1	Notice of this document has been electronically sent to:
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7	Counsel are responsible for distributing copies of this document to co-counsel that have not
8	registered for e-filing under the court's CM/ECF program.
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11	Dated: 7/7/08 /s/ MAG Chambers of Judge Whyte
12	Chambers of Judge whyte
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